

REMARKS

I. Status of the Claims

The status of the claims is as follows:

Claim 6 has been cancelled;

Claim 12 has been withdrawn;

Claims 1, 3, 11, and 13 are currently amended; and

Claims 2, 4, 5, and 7-10 have been previously presented.

II. 35 U.S.C. 112 Rejections

In the office action the examiner questioned whether claims that included the terms “drive means” and “guide means” invoked 35 USC 112 paragraph 6 as set forth in the application. According to section 2181 of the MPEP a claim limitation will invoke 35 USC 112 paragraph six if 1) the phrase “means for” is used; 2) the phrase “means for” is modified by functional language; and 3) the phrase is not modified by sufficient structure for achieving the specified function.

With regard to the term “drive means,” as set forth in claims 1 and 13, applicants would like to direct the examiner’s attention to the original patent application WO 2004/048732, which has been incorporated by reference, as set forth in the preliminary amendment of July 7, 2005. The original application sets forth “drive means” in claim 1. An example of this drive means (and also using the term “drive means”) is explained in detail in the specification. See, for example, page 11, lines 11-17 of the original published application, which set forth examples of the drive means.

With regard to the term “guide means,” claims 1 and 13 have been amended to conform with 35 USC 112 paragraph 6.

With regard to the antecedent basis issue with claim 11, the claim has been amended to correct antecedent basis.

III. 35 U.S.C. 102 Rejections Based Upon Dufour

In the office action, claims 1, 3-5, 9, 10, and 13 were rejected under 35 U.S.C. 102(e) as being anticipated by Dufour et al. U.S. Patent No. 6,840,012. After careful examination of the '012 patent to Dufour, applicants respectfully traverse the examiner's rejection. Dufour does not disclose a spring connected to a linear element. Claims 1 and 13, of the present application, requires the linear element to have a spring connected in series to the linear element. The spring is advantageous because the spring power acts on the pane even if the pane is not being moved – for example in the moment of change of direction between an opening movement (down) and a closing movement (up). Also, there is no friction between the spring and the linear element, and no complicated positioning is required for the spring arrangement.

Dufour does not anticipate claims 1 and 13 because the arrangement shown in Dufour does not include a spring connected to a linear element. As stated in Section 2131 of the MPEP, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (M.P.E.P. § 2131 Eighth Edition, August 2001, Latest Revision October 2005, quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the present case, Dufour fails to include the element of a spring connected to the linear element as required by claims 1 and 13. Thus claims 1 and 13 are not anticipated by Dufour.

Claims 2-5, and 7-11 depend from claim 1. In light of the distinctions made in connection with claim 1, claims 2-5, and 7-11 are also not anticipated by Dufour.

IV. 35 U.S.C. 103 Rejections Based Upon Dufour in View of US Pub 2004/0163320

In the office action claims 6-8 were rejected as being unpatentable over Dufour in view of US Patent Pub. 2004/0163320. Claim 11 was rejected as being unpatentable over Dufour in view of US Patent Pub. 2002/0066232. Applicants respectfully traverse the examiner's position. Dufour by itself or when combined with the '320 or '232 publications does not teach the claim limitations set forth in claims 7 and 8 or 11, especially when viewed in light of the amendments to claim 1. As stated in Section 2143.03 of the MPEP "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." (M.P.E.P. § 2143.03 Eighth Edition, August 2001, Latest Revision October 2006, citing In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Combining Dufour with the '320 or '232 publications does not render obvious the window winding arrangement set forth in claims 7 and 8 or 11 of the present application as they all depend from claim 1. In view of the applicants' position in connection with claim 1, claims 7, 8, and 11 are also not rendered obvious by Dufour in view of the '320 or the '232 publications.

V. Summary and Conclusion

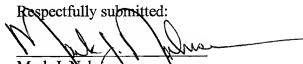
For the reasons stated above, applicants request allowance of claims 1-5, 7-11 and 13.

Please contact applicants' undersigned attorney if there are any remaining issues which could assist in expediting prosecution of this application.

No fees are believed due at this time, however, please charge any deficiencies or credit any overpayments to deposit account 12-0913 with reference to our attorney docket number 39611-99473.

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